

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CARDOZA TUNDE, §
Plaintiff, §
§
v. § CIVIL ACTION NO. H-08-2626
§
§
HARRIS COUNTY HOSPITAL §
DISTRICT, §
Defendant. §

MEMORANDUM AND ORDER

This case is before the Court on the Rule 12(b)(1) Motion to Dismiss (“Motion”) [Doc. # 8] filed by Defendant Harris County Hospital District. Plaintiff Cardoza Tunde has neither filed a response in opposition to the Motion nor requested additional time to do so. Having reviewed the full record and applied governing legal authorities, the Court **grants** the Motion to Dismiss.

Plaintiff was employed by the Harris County Hospital District as a Pharmacy Technician. Plaintiff, citing *Sabine Pilot Service, Inc. v. Hauck*, 687 S.W.2d 733 (Tex. 1985), alleges that she was discharged from her employment in retaliation for having reported violations of regulations promulgated by the State of Texas.

Defendant has moved to dismiss Plaintiff’s complaint, asserting that this Court lacks subject matter jurisdiction. Plaintiff’s only cause of action is a *Sabine Pilot* retaliation claim under Texas law. Consequently, there is no federal question

jurisdiction under 28 U.S.C. § 1331.

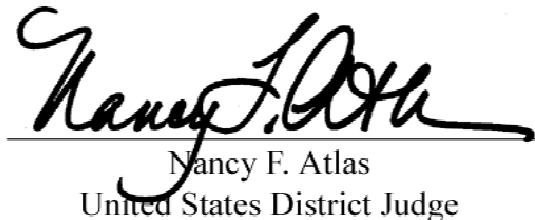
Plaintiff alleges that she is a resident of Harris County, Texas, and that Defendant is a “Texas corporation.” Second Amended Original Complaint [Doc. # 6], ¶¶ 1-2. Because both Plaintiff and Defendant are citizens of the same state, there is no diversity jurisdiction under 28 U.S.C. § 1332 regardless of the amount in controversy.

Plaintiff identifies no other basis for subject matter jurisdiction. As the basis for federal court jurisdiction, Plaintiff states that “all or a substantial part of the cause of action regarding this lawsuit occurred in the Southern District of Texas and the damages are with[in] the jurisdictional [sic] of the Court.” *Id.*, ¶ 3. This, however, is not a basis for subject matter jurisdiction in federal courts.

Plaintiff has failed to state a basis for subject matter jurisdiction in this federal district court. Accordingly, it is hereby

ORDERED that Defendant’s Motion to Dismiss [Doc. # 8] is **GRANTED** and this case is **DISMISSED** for lack of jurisdiction. The Court will issue a separate final dismissal order.

SIGNED at Houston, Texas, this 23rd day of **January, 2009**.



Nancy F. Atlas
Nancy F. Atlas
United States District Judge